

FILED

SEP 13 2023

**Clerk, U.S. Courts
District Of Montana
Billings Division**

William W. Mercer
Matthew H. Dolphay
Holland & Hart LLP
401 North 31st Street, Suite 1500
P.O. Box 639
Billings, MT 59103-0639
Telephone: (406) 252-2166
wwmerc@hollandhart.com
mhdolphay@hollandhart.com

Bryson C. Smith (*pro hac vice*
admission forthcoming)
Holland & Hart LLP
645 South Cache Street, Suite 100
P.O. Box 68
Jackson, Wyoming 83001-0068
Telephone: (307) 739-9741
bcsmith@hollandhart.com

**ATTORNEYS FOR PROPOSED DEFENDANT-INTERVENOR
WESTMORELAND ROSEBUD MINING LLC**

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION**

MONTANA ENVIRONMENTAL
INFORMATION CENTER, SIERRA
CLUB, WILDEARTH GUARDIANS,
and CITIZENS FOR CLEAN
ENERGY,

Plaintiffs,

vs.

MONTANA DEPARTMENT OF
ENVIRONMENTAL QUALITY,
CHRISTOPHER DORRINGTON, in
his official capacity as director of
Montana Department of Environmental
Quality, and DAN WALSH, in his
official capacity as Bureau Chief of the
Mining Bureau of the Montana
Department of Environmental Quality,

Defendants.

Case No. CV 23-28-GF-BMM

**STIPULATION REGARDING
INTERVENTION OF
WESTMORELAND ROSEBUD
MINING LLC**

Plaintiffs initially reserved their position regarding Westmoreland Rosebud Mining LLC's (Westmoreland) motion to intervene as a defendant in this action until after reviewing Westmoreland's motion.¹ Plaintiffs and Westmoreland hereby now stipulate to Westmoreland's intervention upon the following condition:

As a condition to Westmoreland's intervention in this matter, Westmoreland agrees and stipulates not to seek to reopen the stay that the Montana Department of Environmental Quality (DEQ) has agreed to in this matter (Docs. 9, 10), *unless* the U.S. Office of Surface Mining Reclamation and Enforcement (OSMRE) approves House Bill 576 or Senate Bill 392. Should OSMRE approve either House Bill 576 or Senate Bill 392, Westmoreland is not precluded from seeking to reopen the stay.

Subject to the foregoing condition, Plaintiffs agree and stipulate to Westmoreland's intervention in this matter.

A proposed Order allowing Westmoreland to intervene in this matter subject to this condition is submitted herewith.

Dated this 13th day of September, 2023.

/s/ Matthew H. Dolphay

William W. Mercer

Matthew H. Dolphay

Holland & Hart LLP

*Attorneys for Proposed Defendant-
Intervenor Westmoreland Rosebud Mining
LLC*

¹ Defendants take no position on Westmoreland's motion to intervene.

/s/ Shiloh Hernandez

Shiloh Hernandez

Mary Cochenour

Earthjustice

313 East Main Street

Bozeman, MT 59712-4743

shernandez@earthjustice.org

mcochenour@earthjustice.org

Attorneys for Plaintiffs Montana

Environmental Information Center, Sierra

Club, WildEarth Guardians, and Citizens

for Clean Energy

CERTIFICATE OF SERVICE

I hereby certify that on September 13, 2023, a copy of the foregoing document was served on the following persons by the following means:

_____	CM/ECF
<u>1</u>	Hand Delivery
<u>2, 3, 4</u>	Mail
_____	Overnight Delivery Service
_____	Fax
<u>2, 3, 4</u>	E-Mail

1. Clerk, U.S. District Court
2. Shiloh Hernandez
Mary Cochenour
Earthjustice
313 East Main Street
Bozeman, MT 59772-4743
shernandez@earthjustice.org
mcochenour@earthjustice.org
Counsel for Plaintiffs
3. Austin Knudsen
Montana Attorney General
Peter M. Torstensen, Jr.
Assistant Solicitor General
215 North Sanders
P.O. Box 201401
Helena, MT 59620-1401
peter.torstensen@mt.gov

Drew C. Ensign (*pro hac vice admission pending*)
Drew C. Ensign, PLLC
202 E. Earll Drive, Suite 490
Phoenix, AZ 85004
drewensignlaw@gmail.com

Counsel for Proposed Defendant-Intervenor State of Montana

4. Samuel King
Jeremiah Langston
Montana Department of Environmental Quality
P.O. Box 200901
1520 East Sixth Avenue
Helena, MT 59620-0901
Samuel.King@mt.gov
Jeremiah.Langston2@mt.gov

Attorneys for Defendant Montana Department of
Environmental Quality

/s/ Matthew H. Dolphay
Matthew H. Dolphay